

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 29744 of 2007(N)

PETITIONER:

VARGHESE PANICKER, S/O.OMMEN PANICKER,
VOTER NO.660, WARD NO.IV, ELAMPALLOOR GRAMA
PANCHAYATH, RESIDING AT PUTHENVILA VEEDU,
HOSPITAL JUNCTION, ELAMPALLOOR, KOLLAM.

BY ADV. SRI.S.SUDHEESHKAR
SRI.PRATHEESH.P

RESPONDENTS:

1. THE DISTRICT COLLECTOR, KOLLAM.

2. ELECTORAL REGISTRATION OFFICER,
ELAMPALLOOR GRAMA PANCHAYATH,
KOLLAM.

3. THE SECRETARY,
ELAMPALLOOR GRAMA PANCHAYATH,
KOLLAM.

4. DEPUTY DIRECTOR OF PANCHAYATH,
KOLLAM.

5. STATE ELECTION COMMISSION REPRESENTED
BY ITS SECRETARY, THIRUVANANTHAPURAM.

R1 & R5 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMMN.
R4 BY SR.GOV.T.PLEADER SRI.K.J.MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C. KURIAKOSE, J.

.....
W.P.(C)No.29744 OF 2007
.....

DATED THIS THE 10TH OCTOBER, 2007

J U D G M E N T

The grievance of the petitioner who is a voter in Ward IV of Elampalloor Grama Panchayat is that Ext.P1 complaint submitted by him to the draft electoral roll published in the Panchayat is not being considered at all by respondents 1 and 2 (the District Collector and the Electoral Registration Officer). The petitioner therefore prays that a writ may be issued directing respondents 1 and 2 to take immediate action on Ext.P1, after affording a hearing opportunity to him.

2. Mr.Murali Purushothaman, Standing Counsel for the 5th respondent-State Election Commission has filed a statement on behalf of respondents 1 and 5. It is contended at paragraphs 3 and 4 therein as follows:-

“3. The right to vote is only a statutory right as conferred by the Kerala Panchayat Raj Act on each voter. The right to be included in the voters list is the individual right of a voter. No omnibus complaint is maintainable challenging the inclusion or exclusion of names from the voters list. The Constitution Bench of the Hon'ble Supreme Court in **Lakshmi Charan Sen v. A.K.M.Hassan Uzzaman and Others** (AIR 1985 SC 1233) has held that the right to be included in the

electoral roll or to challenge the exclusion of any name in the electoral roll is a right conferred upon an individual and not upon the Political party or Association. There cannot be an omnibus representation in the nature of Ext.P1 objecting to the draft electoral roll. Ext.P1 is not a statutory application as provided under the Kerala Panchayat Raj (Registration of Electors) Rules, 1994. The petitioner cannot espouse the cause of others in the matter of inclusion or exclusion of names in the electoral roll. As submitted, Ext.P1 is an omnibus complaint and not a statutory application under the Act and Rules and the Electoral Registration Officer is not having any authority to include or exclude the names of person referred to in Ext.P1 representation in the electoral roll without any individual statutory application. Therefore, Ext.P1 representation cannot be acted upon.

4. The draft electoral roll for Ward No.4 of Elampalloor Grama Panchayat was published on 14.9.2007. The last date for lodging claims and objections was on 28.9.2007. The date fixed for deciding the claims and objections is 11.10.2007. The final publication of electoral roll is scheduled on 18.10.2007. Further, the Kerala Panchayat Raj Act and the Kerala Panchayat Raj (Registration of Electors) Rules provides for a hierarchy of remedies in the matter of preparation, revision and correction of

electoral roll. If the petitioner has filed statutory applications as prescribed by the Rules against the inclusion or exclusion of any names in the draft electoral roll, the same would be considered in accordance with law. If he is aggrieved by any orders deciding his objection, he has statutory remedies available under the Act and Rules.”

3. Heard Sri.S.Sudheeshkar, learned counsel for the petitioner and Sri.Murali Purushothaman, learned Standing Counsel for the State Election Commission.

4. My attention was drawn by Sri.Murali Purushothaman in his submissions to the Kerala Panchayat Raj (Registration of Electors) Rules, 1994 and also to statutory Forms, viz., Form 4 prescribed under Rule 11(1) and Rule 25 for submission of application for inclusion of names, Form 5 prescribed for filing objections to the inclusion of unauthorised names and also to Form 6 which is the statutory Form for filing objections to particulars in an entry. Ext.P1, learned Standing Counsel would submit, is not in the statutory Form. My attention was drawn to my own judgment in W.P.(C)No.32605 of 2005.

5. The learned counsel for the petitioner submits that it may be correct to say that Ext.P1 does not conform to any statutory Form. But, Ext.P1 contains all the necessary details and therefore Ext.P1

ought to be construed as a complaint in the statutory Form itself. I cannot agree. Following the view which I have taken in W.P.(C) No.32605 of 2005, I decline the relief sought for in the Writ Petition. However, I make it clear that if the petitioner has already filed any complaints in the statutory Form, the 2nd respondent will take up and try the same, hear the petitioner and pass appropriate orders at the earliest.

(PIUS C.KURIAKOSE, JUDGE)

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